



Arkansas

State Revenue Tax Quarterly

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The Clean Indoor Air Act of 2006

On April 6, 2002, the Arkansas Legislature passed The Clean Indoor Air Act of 2006 (Act 8), which restricts smoking in all public work-sites to protect employees and the public from the harms of secondhand smoke. Thanks to our Governor, the Legislature, and many other public health advocates, starting July 21, 2006, Arkansans will soon have a safer place to live and work.

This proactive legislation comes with a lot of questions and concerns. A website (www.ARCleanAir.com) and a toll free number (1-800-235-0002) have been established at

the Department of Health and Human Services (DHHS). The website contains a business packet with informational brochure, as well as frequently asked questions. Additionally, it provides a link for questions to be submitted and potential violations to be reported.

The Department of Finance and Administration (DFA) has supported the efforts of DHHS as it proceeded with the implementation of Act 8. One of the key pieces is to reach as many businesses as possible with the correct information on how to implement the law, and this is where your assistance is needed.

Please read the material on the website and encourage business owners in your community to either visit the website (all information can be downloaded and printed) or call the toll free number to request a business packet or additional information. If your office has business packets available, please distribute them to the businesses in your area. In the following weeks you will become more aware of this new law through a planned media campaign. A smoke-free workplace law is a win-win for every community. Thank you for your assistance.

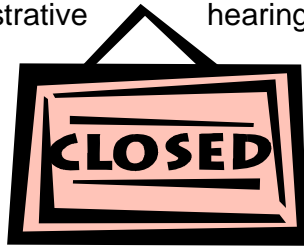
Office of Excise Tax Administration

Business Closure

Act 46 of the 2nd Extraordinary Session of 2003, effective July 1, 2004, provided author-

ity to the Department of Finance and Administration to notify a noncompliant taxpayer that his or her business was subject to closure for noncompliance in filing and remitting state and local sales tax. A "noncompliant taxpayer" is any taxpayer who has failed to file or pay the gross receipts tax for any two months during any consecutive twenty-four month period. A "noncompliant taxpayer" who has a third delinquency in reporting or remitting in the twenty-four month period is issued a "business closure order." The "business closure order" is issued by written notice via certified mail or hand delivery. The order provides that the business will be closed within five (5) business days from the date of the notice unless the tax delinquency is paid. A noncompliant taxpayer can avoid closure of the business by: (a) filing all delinquent tax reports and remitting the tax, the accrued penalty, and interest or (b) entering into a payment plan agreement.

Within five (5) business days after the delivery or attempted delivery of the business closure order, a noncompliant taxpayer may protest the closure of the business and request an administrative hearing. The noncompliant taxpayer has the option of filing suit in circuit court of his or her domain or the location of the business within 20 days of the hearing officer's decision.



If the business closure decision is affirmed in all of the above judicial steps, the Department of Finance and Administration will affix a written notice to all entrances of the business stating its closure.

Tax Investigators were reassigned from other tax sections within the Revenue Division to form the Sales and Use Tax Compliance Unit, a division of the Sales Tax Section. These investigators personally visit businesses to deliver the required notices for Business Closure, collect past due sales taxes and missing sales tax reports, assist taxpayers in filing reports, and resolve taxpayer complaints.

After almost two years of Business Closure activities, 94 Business Closure Signs have been posted with the business permanently closing. In total, 3,258 business closure orders have been served with 3,072 orders having been resolved, either by entering into a payment plan agreement or by paying their sales tax account in full. Some businesses had already closed voluntarily or had filed bankruptcy prior to the business closure signs being posted.

To view the list of Businesses that have been served a notice under the Business Closure, visit the Department of Finance and Administration's web page at:
https://www.ark.org/dfa_bcn/app/result.html

Available Now:
Amended Sales and Use Tax Rules

The Department has been engaged for some time in a comprehensive effort to amend the sales and use tax rules to accomplish the following four purposes:

1. Incorporate statutory changes that have not yet been incorporated into the rules;
2. Delete rules for which the applicable law at the time of the rule promulgation has been repealed;
3. Incorporate Departmental interpretation of general applicability that was the subject of numerous opinion requests, administrative hearings, or other sources of applicability to numerous taxpayers but that had not been incorporated into the rules; and
4. Group similar issues together and rewrite some text for greater clarity without changing rule numbers with which taxpayers have long been familiar.

A public hearing is currently scheduled at 1:00 p.m. on August 8, 2006, in Room 2330, Ledbetter Building, 1800 W. Seventh St., Little Rock, AR. A marked-up draft of the rules that shows additions and deletions is available for

review on the Department of Finance and Administration webpage titled "Revenue Rules" in the "Proposed Rule" Section at the top of the page.

http://www.arkansas.gov/dfa/rules/dfa_revenue_rules.html

Tax Refunds Initiated for Arkansas Motor Fuel Suppliers Producing Biodiesel Mixtures Act 2223 of 2005

The Motor Fuel Tax Section received notification on April 24, 2006, from the Arkansas Alternative Fuels Commission and the Arkansas Department of Economic Development that the first qualified company has been certified as a biodiesel producer accordance with ACA § 15-4-2801, *et seq.*

As a result of an Arkansas biodiesel producer becoming certified, a refund of Fifty Cents (\$0.50) per gallon is available to motor fuel suppliers (wholesalers) for each gallon of biodiesel used by the supplier to produce a biodiesel mixture containing a blend of undyed, clear distillate special fuel (diesel) and biodiesel. To the extent the portion of biodiesel blended with undyed, clear distillate to make the biodiesel mixture exceeds two percent of the total blend, the refund calculation will be limited to the two percent portion. The maximum refund available to a motor fuel supplier making biodiesel mixtures containing at least two percent biodiesel will be One Dollar (\$1.00) per 100 gallons of biodiesel mixture produced.

The Motor Fuel Tax Section has notified all Arkansas licensed motor fuel suppliers of the availability of this new refund. Suppliers will



file quarterly refund requests with the first requests being filed in July 2006.

Streamlined Sales Tax

At the April 17-19, 2006, meeting in Indiana, the Governing Board voted on the following four amendments:

1. Ohio's sourcing amendment would have established a mechanism where out-of-state companies could collect a blend rate and, if the rate exceeded the total state and local sales tax rate of the purchaser's destination, the state would issue a refund to affected purchasers for the excess. **This amendment received one positive vote.**
2. The Utah sourcing amendment was for the benefit of Texas and it would have allowed instate sellers to collect sales tax on an origin basis but did not amend or address the issue of out-of-state sellers being required to collect on a destination basis. **This amendment received no positive votes.**
3. Tennessee proposed an amendment that would allow a state to establish an additional state tax on items and services that are prohibited from local taxation because of federal code provisions, i.e., satellite television services. Tennessee's amendment would allow a state to have an additional state tax on these types of transactions and still be in compliance with the Agreement. **All the votes were positive with the exception of one.**
4. At the request of Puerto Rico, Utah proposed an amendment to the Agreement to allow Puerto Rico to be eligible for membership. **This amendment was approved by the Governing Board.**

The main aspect of the meeting of the Governing Board was Certified Service Provider (CSP) contracts. For the past year, Arkansas and the other member states have assigned personnel to work with and review computer systems and operations of the companies who responded to the request for bids to become

CSP's. The final text of the contract was reviewed and approved by the Governing Board. Three companies have met the criteria specified, proven that they can collect the taxes for the state governments, and were approved to be offered contracts: (1) Tax Ware, (2) Exactor, and (3) Avalera. The CSP's expect to be ready by mid-summer to start collecting sales taxes from companies who have registered with Streamlined.

The next aspect involves certifying Certified Assisting Software (CAS) contracts, which requires companies to meet the criteria outlined in the SSTA for calculating sales taxes. Companies will be able to purchase these certified software packages and use them to assist in filing tax returns. Tax Ware's software package currently meets the criteria.

Utah, an associate member of the Governing Board, amended their law to remove the destination sourcing provisions that had been adopted for purposes of Streamline. Utah will remain an associate member of the Governing Board until the associate membership period ends. To get back in compliance with the destination sourcing provision, Utah has to adopt additional legislation. Vermont is preparing to petition for membership, along with the possibility of a couple of other states.



During the week of May 8th, the State and Local Advisory Council and the Business Advisory Council met in Des Moines, Iowa. The Councils discussed ongoing Streamlined Sales Tax interpretation guidelines and the development of issue papers for use by the states to provide consistent interpretation.



The State and Local Advisory Council will meet in Memphis in July, and the next meeting of the Governing Board will be in North Dakota the last week of August.

Office of Revenue Legal Counsel

DFA Legal Opinions Remain Confidential

A lawsuit, *Ryan & Company AR, Inc. v. Richard Weiss, Director of the Arkansas Department of Finance and Administration*, was filed in the Pulaski County Circuit Court on March 1, 2006. It challenged the Department of Finance and Administration's (DFA) interpretation of the Freedom of Information Act (FOIA) with respect to opinions issued by Revenue Legal Counsel. The issue concerns whether legal opinions issued by Revenue Legal Counsel are confidential under Ark. Code Ann. § 26-18-303 and therefore not subject to disclosure in response to a FOIA request. The matter went to hearing on April 28, 2006. DFA objected to the release of opinions, arguing that the opinions are confidential and privileged tax records.



Additionally, the Department objected to redaction, asserting that it would require DFA to compile information or create a record, which is not required by FOIA.

On May 31, 2006, Judge Timothy D. Fox issued a decision agreeing that DFA's opinions were confidential and therefore exempt from disclosure. The court held that DFA's refusal to release the opinions was not violative of due process or equal protection and that redaction of some or all of the requested opinion letters would require a qualitative analysis for each document as opposed to a mechanical redaction, this requiring DFA to create a new record. With respect to the plaintiff's argument that disclosure of the requested opinions "would be in the best interest of efficient application of the provisions of Arkansas tax law," the court said that this is a policy argument to be addressed by the legislative branch of government.

Office of Income Tax Administration

Electronic Filing Update

Arkansas received 605,067 electronically filed individual income tax returns compared with 585,146 at the same time last year. Online E-file (generally taxpayer prepared) increased from 75,681 to 86,140. The Telefile process was discontinued in 2006. Last year, 18,820 returns were submitted using Telefile. A decrease in the August tax return filings is anticipated due to the changes in the federal automatic extension provisions. The automatic extension available on federal extension Form 4688 is valid until October 15th.

Reminders for Arkansas Corporation Income Tax Filers

The September 15th extended due date for calendar year Arkansas corporation income tax filers is quickly approaching so here are a few reminders:



1. IRC Section 179 expense deduction for tax years beginning on or after January 1, 2003 is limited to \$25,000;
2. Arkansas has not adopted IRC Section 199 regarding the domestic production activities deduction; and
3. Remember to:
 - (a) Attach a copy of the Corporation's federal return, and
 - (b) Sign and date the Arkansas return before mailing.

Telephone Information

Corporate Income Tax	(501) 682-4775
Taxpayer Assistance for Individual Income Tax	(501) 682-1100 1-800-882-9275
Automated Refund Inquiry & Tele-tax Information	(501) 682-0200 1-800-438-1992
Sales and Use Tax	501-682-1895
Taxpayer Assistance Office	501-682-7751

Federation of Tax Administrator's (FTA)

Conference. Arkansas hosted the 74th Federation of Tax Administrators annual conference June 4-7, 2006. The meeting was attended by 387 delegates representing most of the states and three Canadian Provinces. Topics included updates on the Streamline Sales Tax Project, current outlook for the United States Economy, Disaster Recovery, lessons learned from the Gulf coast, and an update on how federal legislation affects state taxation. After attending the sessions, the attendees were treated to a variety of social events and activities (i.e., golf, Garvan Woodland Gardens in Hot Springs, Clinton Presidential Library, etc.) and entertained by "Trout Fishing in America." A lot of positive feedback was received from the attendees on the quality of the presentations and other meeting events. Many expressed surprise at the changes in Little Rock, with the addition of the River Market and the Clinton Library and Park.



CHANGES IN SALES & USE TAX

Please Call (501) 682-7104 For Periodic Updates
Regarding Local Sales and Use Taxes

http://www.arkansas.gov/dfa/excise_tax_v2/st_index.html

Name	Code	Effective Date	%	Recent Action
Heber Springs	12-03	07/01/06	1.00	Increased
Patterson	74-05	07/01/06	1.00	Enacted
Siloam Springs	04-01	07/01/06	2.00	Increased
Scott County	63-00	08/01/06	1.625	Increased

Calendar of Due Dates

7/14/06—Employee monthly W/H tax, for prior month (EFT filers only);

07/17/06—Employee monthly W/H tax, for prior month; Miscellaneous tax (except Severance taxes);

07/20/06—Sales & Use Tax;

07/25/06—Motor fuel tax (except IFTA); Severance tax;

07/31/06—IFTA

08/14/06—Employee monthly W/H tax, for prior month (EFT filers only);

08/15/06—Employee monthly W/H tax, for prior month; Miscellaneous tax (except Severance taxes);

08/21/06—Sales & Use Tax;

08/25/06—Motor fuel tax (except IFTA); Severance tax;

09/14/06—Employee monthly W/H tax, for prior month (EFT filers only); 3rd Qtr. estimated income tax (Based on calendar year filer) (EFT filers only);

09/15/06—Employee monthly W/H tax, for prior month; AR income tax returns (Cooperative association) (Based on calendar year filers; return due date 8.5 months after end of tax year); 3rd Qtr. estimated income tax (Based on calendar year filer); Miscellaneous tax (except Severance taxes);

09/20/06—Sales & Use Tax;

09/25/06—Motor fuel tax (except IFTA); Severance tax.

10/13/06—Employee monthly withholding tax, for prior month (EFT filers only)

10/16/06—Employee monthly W/H tax, for prior month; Misc. Tax (except Severance taxes)

10/20/06—Sales & Use Tax

10/15/06—Motor fuel tax (except IFTA)

10/31/06—IFTA

DFA's WebPages you may want to bookmark.

1. DFA Main Webpage:

http://www.arkansas.gov/dfa/dfa_taxes.html

2. DFA Sales and Use Tax Webpage:

http://www.arkansas.gov/dfa/excise_tax_v2/st_index.html

3. To order Sales Tax reports on line:

http://www.arkansas.gov/dfa/excise_tax_v2/et_su_st_400_request.html

4. DFA Income Tax Webpage:

http://www.arkansas.gov/dfa/income_tax/tax_agency.html#2

5. DFA Withholding Webpage:

http://www.arkansas.gov/dfa/income_tax/tax_agency.html#2



Two new withholding tax forms are now available: **"Change of Name or Address Form"** and **"Notice of Business Closure or Sale of Business"**

The **Arkansas State Revenue Tax Quarterly** is a publication of the Taxpayer Assistance Office. The newsletter is produced and distributed electronically to tax professionals, businesses, and organizations operating in Arkansas. To be added or deleted from the e-mail list, contact Jan Moore, phone (501) 682-7751, write to Taxpayer Assistance Office, Ledbetter Building, Room 2460, 1800 W. Seventh, P. O. Box 1272, Little Rock, Arkansas 72203-1272, or send an e-mail to jan.moore@rev.state.ar.us.

